



Department of the Treasury Internal
Revenue Service
Tax Exempt and Government Entities
P.O. Box 2508
Cincinnati, OH 45201

Date:
04/01/2024
Employer ID number:

Form you must file:
1120
Tax years:
All
Person to contact:

Release Number: 202426015
Release Date: 6/28/2024
UIL Code: 501.03-00,
501.03-08, 501.03-30

Dear :

This letter is our final determination that you don't qualify for exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a) as an organization described in IRC Section 501(c)(3). Recently, we sent you a proposed adverse determination in response to your application. The proposed adverse determination explained the facts, law, and basis for our conclusion, and it gave you 30 days to file a protest. Because we didn't receive a protest within the required 30 days, the proposed determination is now final.

Because you don't qualify as a tax-exempt organization under IRC Section 501(c)(3), donors generally can't deduct contributions to you under IRC Section 170.

We may notify the appropriate state officials of our determination, as required by IRC Section 6104(c), by sending them a copy of this final letter along with the proposed determination letter.

You must file the federal income tax forms for the tax years shown above within **30 days** from the date of this letter unless you request an extension of time to file. For further instructions, forms, and information, visit www.irs.gov.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection after deleting certain identifying information, as required by IRC Section 6110. Read the enclosed Letter 437, Notice of Intention to Disclose - Rulings, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Letter 437 on how to notify us. If you agree with our deletions, you don't need to take any further action.

If you have questions about this letter, you can call the contact person shown above. If you have questions about your federal income tax status and responsibilities, call our customer service number at 800-829-1040 (TTY 800-829-4933 for deaf or hard of hearing) or customer service for businesses at 800-829-4933.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:

Letter 437

Redacted Letter 4034

Redacted Letter 4038



Department of the Treasury
Internal Revenue Service
PO Box 2508
Cincinnati, OH 45201

Date: 01/16/2024

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

C = Date of Formation
D = State
E = Program Name
F = Related Entity
G = Participants
H = President
w dollars = Fee
x percent = Time Spent

UIL:

501.03-00
501.03-08
501.03-30

Dear :

We considered your application for recognition of exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a). We determined that you don't qualify for exemption under IRC Section 501(c)(3). This letter explains the reasons for our conclusion. Please keep it for your records.

Issues

Do you qualify for exemption under IRC Section 501(c)(3)? No, for the reasons stated below.

Facts

You submitted Form 1023-EZ, Streamline Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.

You attest that you were incorporated on C, in D. You attest that you have the necessary organizing document, that your organizing document limits your purposes to one or more exempt purposes within the meaning of IRC Section 501(c)(3), that your organizing document does not expressly empower you to engage in activities, other than an insubstantial part, that are not in furtherance of one or more exempt purposes, and that your organizing document contains the dissolution provision required under Section 501(c)(3).

You attest that you are organized and operated exclusively to further charitable purposes. You attest that you have not conducted and will not conduct prohibited activities under IRC Section 501(c)(3). Specifically, you attest you will:

- Refrain from supporting or opposing candidates in political campaigns in any way
- Ensure that your net earnings do not inure in whole or in part to the benefit of private shareholders or individuals
- Not further non-exempt purposes (such as purposes that benefit private interests) more than insubstantially
- Not be organized or operated for the primary purpose of conducting a trade or business that is not related to your exempt purpose(s)
- Not devote more than an insubstantial part of your activities attempting to influence legislation or, if you made an IRC Section 501(h) election, not normally make expenditures in excess of expenditure limitations outlined in Section 501(h)
- Not provide commercial-type insurance as a substantial part of your activities

Form 1023-EZ states that your mission or most significant activities are the promotion of fireworks fun and safety by providing resources for education, training, and hands-on experience.

During review of your Form 1023-EZ, detailed information was requested supplemental to the above attestations.

Your Articles of Incorporation described your purpose to carry out and promote charitable and educational endeavors and programs of E and to provide scholarships for recipients of the E program. Your bylaws described your mission is the promotion of fireworks fun and safety by providing resources for education, training, and hands-on experience. Your objectives, as stated in your bylaws, are offering instruction for general safety principles and practices for E via F sponsored display operator courses taught by a F approved trainer and providing classroom facilities, equipment, product and educational resources to certify participants as display operators.

Your activities include providing firework display shows for gender reveals, weddings, special effects, private backyard firework display shows, birthday parties, graduations, school events and local events such as parades, fairs, holiday events, display competition and other social gatherings. You do not collect fees for your services, but you will charge a fee for display shows.

You provide recreational events for all ages. You offer a course to _____ that are experiencing _____ and courses to children ages _____ and _____ with a participating guardian to provide knowledge and experience to safely demonstrate E.

Your scholarship program will provide funds to individuals to attend a licensed display course of F. To be eligible, the recipients must meet all F rules; must be at least 18 years of age; become a member of the F; and should have basic knowledge of E. The selection process will include a board and committee members. Each application will be reviewed equally with the scholarship awarded to the individuals that best meet the criteria. The funds will be paid directly to the institution. Applicants related to a board of committee member can apply but the application will be sent to the committee of members of F to ensure an unbiased decision.

F courses are offered monthly. The classes consist of one to three E licensed trainers and one to four licensed/certified G. Each course offers a demonstration and display post class. Each event requires several weeks to plan and build. The displays are performed by licensed/certified G. The displays are planned several weeks in advance. Displays need to be approved by a local fire marshal. The events are advertised using social

media, newspaper, radio, event flyers, and local promotional advertisements. Per your website, this cost is w dollars/person.

Your membership qualifications require an individual to endorse your mission statement, to actively support the objectives, be , attend the F course with a passing test, attend events and quarterly meetings. You are not currently collecting membership fees.

You engage in social gatherings including attending E club meetings and gatherings, competition events and yearly national conventions. You provide support and entertainment for the community by allowing other local vendors opportunities to participate in events and allowing resource outreach for providers and community members in need. You spend x percent of your time conducting actual firework displays while offering instructional assistance to the entire crew and promoting social connections.

Your website pages contain a list of events you specialize in including fireworks, , weddings, special events, and and . It also advertises that if one would 'needs fireworks', H, your board president, is your guy.

Law

IRC Section 501(c)(3) provides, in part, for the exemption from federal income tax of organizations organized and operated exclusively for charitable, religious or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) provides that, for an organization to be exempt under IRC Section 501(c)(3), it must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational or operational test, it is not exempt.

Treas. Reg. Section 1.501(c)(3)-1(c)(1) provides that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities that accomplish one or more of such exempt purposes specified in IRC Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

In Better Business Bureau of Washington, D.C., Inc., v. U.S., 326 U.S. 279 (1945), the court held that the presence of a single non-exempt purpose, if substantial in nature, will preclude exemption, regardless of the number or importance of statutorily exempt purposes.

Application of law

You are not described in IRC Section 501(c)(3) because you fail the operational test as described in Treas. Reg. Section 1.501(c)(3)-1(a)(1). You offer scholarships for an educational program to be licensed and certified G and to develop safe practices. Your main activity is the promotion of fireworks fun and safety and participating in social events such as weddings, school events, and other private display shows. Since you spend x percent of your time and resources in the display shows, you are not operating exclusively for exempt purposes under Section 501(c)(3).

Treas. Reg. Section 1.501(c)(3)-1(c)(1) provides that an organization will not be regarded as exempt under IRC Section 501(c)(3) or operated exclusively for one or more exempt purposes if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. Because you spend a substantial amount of your time

and resources for non-exempt social and recreational purposes, such as firework display shows, weddings, and private backyard firework display shows, you fail the operational test, as described in Treas. Reg. Section 1.501(c)(3)-1(c)(1).

Like the organization described in Better Business Bureau of Washington, D.C., Inc., the presence of a single non-exempt purpose, if substantial in nature, will destroy exemption under IRC Section 501(c)(3) regardless of the number or importance of any other exempt purposes. Although you are providing education on E safety your primary purpose is social; that of setting up and displaying fireworks. The provision of courses teaching how this is done safely is not serving an exclusive educational purpose. Accordingly, you do not qualify for exemption under Section 501(c)(3).

Conclusion

Based on the above facts and analysis, you do not qualify for exemption under IRC Section 501(c)(3) because you fail the operational test for substantial non-exempt social and recreational purposes. You conduct events that include firework display shows at private events, you participate in social gatherings and competitions with your members, and spend x percent of your time on firework display shows. Accordingly, you do not qualify for exemption under Section 501(c)(3).

If you agree

If you agree with our proposed adverse determination, you don't need to do anything. If we don't hear from you within 30 days, we'll issue a final adverse determination letter. That letter will provide information on your income tax filing requirements.

If you don't agree

You have a right to protest if you don't agree with our proposed adverse determination. To do so, send us a protest within 30 days of the date of this letter. You must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A statement of the facts, law, and arguments supporting your position
- A statement indicating whether you are requesting an Appeals Office conference
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization or your authorized representative
- The following declaration:

For an officer, director, trustee, or other official who is authorized to sign for the organization:

Under penalties of perjury, I declare that I have examined this request, or this modification to the request, including accompanying documents, and to the best of my knowledge and belief, the request or the modification contains all relevant facts relating to the request, and such facts are true, correct, and complete.

Your representative (attorney, certified public accountant, or other individual enrolled to practice before the IRS) must file a Form 2848, Power of Attorney and Declaration of Representative, with us if they haven't already done so. You can find more information about representation in Publication 947, Practice Before the IRS and Power of Attorney.

We'll review your protest statement and decide if you gave us a basis to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't given us a basis

for reconsideration, we'll send your case to the Appeals Office and notify you. You can find more information in Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court later because the law requires that you use the IRC administrative process first (IRC Section 7428(b)(2)).

Where to send your protest

Send your protest, Form 2848, if applicable, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service
EO Determinations Quality Assurance
Mail Stop 6403
PO Box 2508
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Mail Stop 6403
Cincinnati, OH 45202

You can also fax your protest and supporting documents to the fax number listed at the top of this letter. If you fax your statement, please contact the person listed at the top of this letter to confirm that they received it.

You can get the forms and publications mentioned in this letter by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676). If you have questions, you can contact the person listed at the top of this letter.

Contacting the Taxpayer Advocate Service

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or if you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 877-777-4778.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements